

SALES AND USE TAX REVIEW COMMISSION

RECOMMENDATION PURSUANT TO P.L. 1999, C. 416

BILL NUMBER: A-1988

**DATE OF
INTRODUCTION: 3/4/02**

SPONSOR: Assemblyman Asselta

**DATE OF
RECOMMENDATION: 4/30/02**

IDENTICAL BILL: S-1185

COMMITTEE: Assembly Transportation

DESCRIPTION:

Exempts sales of aircraft having a certified takeoff weight of at least 6,000 pounds.

ANALYSIS:

While it appears logical to exempt sales of the aircraft itself, since sales of repairs and parts are exempt pursuant to an amendment enacted in 1999, this will probably be a very costly piece of legislation, if enacted, since aircraft are high-price items. Because the exemption would apply to aircraft purchases that are *not* used by air carriers for air commerce, it appears that it would apply to planes used for either private or business purposes. There does not seem to be any policy reason to exempt them related to some tangible benefit for the citizens of the state as a whole, its economy or environment. Perhaps that, coupled with revenue concerns, is the reason that no comparable exemption for noncommercial motor vehicles or vessels, based solely on weight, has ever been proposed.

The 6,000-pound threshold could potentially be difficult for Division of Taxation personnel to interpret if they are not familiar with aircraft. However, the same criterion applies to determine those aircraft eligible for exempt repairs pursuant to the 1999 amendment (P.L.1999, c.246), and the Division is now aware that the FAA-certified takeoff weight is indicated in an aircraft's flight manual, which every aircraft must carry. The maximum gross takeoff weight is made up of the weight of the aircraft plus what it carries. It will be heavier than the maximum gross landing weight, because by the time the plane lands, it will have burned fuel, and with the fuel gone, the gross weight will be less. The FAA issues "type certificates." These are given to the manufacturer. They

specify what gross takeoff weight is allowed for the particular type certificate. Thus, the gross weight allowed according to the type certificate is the original certified weight. Supplemental certificates may be issued later, showing a higher gross takeoff weight if changes are made to the aircraft after manufacture or even after sale, e.g., new larger motor substituted for the standard motor. However, the “maximum gross takeoff weight, as specified in the type certificate issued by the Federal Aviation Administration” would mean that *original* gross takeoff weight in the specifications given to the manufacturer by FAA. It would *not* mean the higher weight, after supplemental certificates are issued because the plane had additional heavy parts installed later.

RECOMMENDATION:

Oppose

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 5

COMMISSION MEMBERS ABSTAINING: 0

COMMISSION MEETING DATE: 4/30/02

CMT:faw